IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.2776 of 2006

Balasaheb Anna Patil & ors. Petitioners

Vs.

Ananda Ramchandra Sarnaik Respondents

Mr.V.B.Rajure for petitioners.

None for respondents.

CORAM: B.H.MARLAPALLE,J.

July 06, 2006.

P.C.

. Heard Mr.Rajure, the learned counsel for the petitioners who are the plaintiffs in RCS No.786 of 2005. In the said suit the petitioners have prayed for permanent injunction in respect of the suit land located in Survey Nos.477 and 483 admeasuring 2H. 26 Rs. and 2 H. 14 Rs. respectively in village Nagaon. In the said suit an application at Exhibit 5 was filed for temporary injunction and the learned 3rd Jt. Civil Judge, Junior Division at Kolhapur was pleased to reject the same vide his judgment and

order dated 9/1/2006. The plaintiffs approached the District Court at Kolhapur in Misc. Civil Appeal No.15 of 2006 and the same has been dismissed by the learned 1st Ad-hoc Addl. District Judge at Kolhapur vide her judgment and order dated 6/3/2006.

. The learned Judge of the trial Court held that the plaintiffs could not prove the prima facie case in their favour and the balance of convenience was not made out so as to grant a prayer for temporary injunction. The very same issues were considered by the lower Appellate Court and on scanning the documentary evidence placed on record, it agreed with the findings recorded by the trial Court.

. Having heard the learned counsel for the petitioners and considered the reasons set out by both the Courts below, it is evident that no interference is called for in the concurrent findings recorded regarding the prima facie case and, therefore, this petition fails at the threshold. Nevertheless, looking at the nature of the dispute, it is necessary that the suit is heard and decided expeditiously.

. Hence the petition is rejected summarily and it is directed that the RCS No.786 of 2005 be heard and decided as expeditiously as possible and preferably by 31st May 2007.

(B.H.MARLAPALLE,J.)